

1 GEOFFREY A. HANSEN
Acting Federal Public Defender
2 Northern District of California
JOYCE LEAVITT
3 Assistant Federal Public Defender
13th Floor Federal Building - Suite 1350N
4 1301 Clay Street
Oakland, CA 94612
5 Telephone: (510) 637-3500
6 Facsimile: (510) 637-3507
Email: Joyce_Leavitt@fd.org
7

8 Counsel for Defendant HAL
9

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 UNITED STATES OF AMERICA,
15

16 Plaintiff,

17 v.

18 D'MARCO HAL,
19

20 Defendant.
21

Case No.: CR 20–00471 YGR

**DECLARATION OF JOYCE LEAVITT
IN SUPPORT OF DEFENDANT'S
SENTENCING MEMORANDUM AND
MOTION FOR DOWNARD VARIANCE**

Court: Courtroom 1, 4th Floor

Hearing Date: June 24, 2021

Hearing Time: 9:00 a.m.
22

23 I, JOYCE LEAVITT, declare the following:

- 24 1. I am an Assistant Federal Public Defender employed by the Office of the Federal
Public Defender in Oakland, California. Our office was appointed to represent
25 D'Marco Hal ("Hal") in the above-entitled matter.
26 2. In preparation for sentencing, Federal Public Defender staff investigator Madeline
Larsen interviewed witnesses and obtained records relating to Hal's background and
27 upbringing. This declaration details some of the information included in the records.
28

1 A declaration by Investigator Larsen is being submitted concurrently which details
2 interviews with two witnesses, Shameeka Hayes and Jeresia Caldwell.

3 **ALAMEDA COUNTY JUVENILE COURT FILE**

- 4 3. An investigation was conducted by the Juvenile Justice Center in connection with the
5 referral of D'Marco Hal when he was 12 years old, in connection with the juvenile
6 offense identified in the Presentence Report. The report corroborated the domestic
7 violence toward [the mother], as well as the fact that at the time of the report at time,
8 the family was essentially homeless. A psychological evaluation prepared in 2012
9 stated "It is clear that the trauma exposure has left a lasting affect on D'Marco . . .
10 D'Marco was very parentified and was made to be responsible as the caretaker of his
11 younger siblings." The report further stated that Hal "experience[d] symptoms of
12 depression, low self-esteem, withdrawal and trauma history" and concluding that "the
13 lack of consistency by his mother, her repeated history of being in violent and abusive
14 relationships, and inability to parent effectively, appears to have profoundly affected
15 D'Marco." At the time, the evaluator recommended "intensive, long term therapy to
16 deal with his family dynamics and exposure to trauma." This therapy never occurred.
- 17 4. The probation officer who conducted the interview also stated that the living situation
18 at the time of the offense conduct was "troubling," noting that "four families and a
19 total of 16 individuals were living in a two bedroom home." The offense, which
20 involved other minors in addition to 12 year old D'Marco Hal, including a 16 year old
21 co-defendant, occurred at the home where all involved individuals were staying.

22 **ALAMEDA COUNTY SOCIAL SERVICES AGENCY RECORDS**

- 23 5. Alameda County Social Services first opened a file for D'Marco Hal and his siblings
24 on September 19, 2004, when he was 6 years old. The earlier records alleged general
25 neglect and domestic violence. The initial complaint from September 19, 2004,
26 indicated that the parents were addicted to crack, neglected the children, and that the
27 three children were outside unsupervised for hours. Moreover, the house was infested
28 with roaches and rats, there was no food for the children, the children were exposed

1 to domestic violence, and the father was violent with the children, including having
 2 hit the 4 year old's head against a bedpost. The report from 2009 included additional
 3 allegations of physical abuse. And records from June 27, 2014, indicated that Hal's
 4 mother did not like what occurred at the court hearing that day and punched her son's
 5 custodian in the face with a closed fist and in the stomach knowing that she was
 6 pregnant. The custodian's young child was also injured. The Social Services records
 7 are not more voluminous because family members, including Mr. Hal's grandmother
 8 and auntie, tried to step in to avoid losing Hal and his siblings to the system.

9 **ALAMEDA COUNTY CRIMINAL RECORDS RELATED TO HAL'S FATHER**

10 6. D'Marco Hal's father's criminal record includes 23 separate cases between the years
 11 of 1992 through 2019, including nine felony convictions leading to nine state prison
 12 sentences. The felony convictions primarily involved possession or sale of a
 13 controlled substance or firearms possession. But Mr. Hal's father also had a domestic
 14 violence conviction which resulted in a four year state prison sentence.

15 **HIGHLAND HOSPITAL RECORDS**

16 7. Hospital Records from Highland Hospital corroborate that on July 23, 2016, Mr. Hal
 17 was the victim of a shooting. He was a passenger in a car, and happened to turn his
 18 face which avoided potentially catastrophic damage, including a bullet to his head.
 19 Instead the bullet grazed his face causing lacerations on his cheek. Hal also had
 20 multiple glass particles in his eyes from the shattered windshield.

21 **HIGH SCHOOL TRANSCRIPTS FROM 2012 THROUGH 2015**

22 8. Transcripts from Royal Sunset High School in Hayward, California indicated that Mr.
 23 Hal's grades fluctuated greatly. He did poorly at San Lorenzo High School when he
 24 was living with his mother but did well when he was living with his aunt, including
 25 getting a B in World History, B+ in algebra, B+ in English, and an A- in Life science.
 26 Hal has since obtained his Graduate Equivalency Diploma.

27 //

1 I declare under the penalty of perjury that the foregoing is true and correct.

2 Executed on June 17, 2021, in Orinda, California.

3
4 /s/ Joyce Leavitt
JOYCE LEAVITT